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OFFICE OF PETITIONS

In re Application of :
Michael Conor Minogue et al :
Application No. 09/902,287 :
Filed: July 10, 2001 :
For: ABDOMINAL BELT WITH ADJUSTABLE :
ELECTRODES :

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 8, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for the benefit of priority to prior-filed PCT application number PCT/IE00/00004 filed January 11, 2000.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

A Certificate of Correction is needed because the benefit claim was not on the front page of the patent. Further, the above petition is necessary because applicant did not include a proper benefit claim (in the first sentence of the specification or an ADS) within the required time period. The amendment to the specification was added after the time period and was entered prematurely without the filing of the above petition.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and the submission of a Certification of Correction to correct the above matters are required.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this patent, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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